

the protested concern, the protester, or the contracting officer responsible for the procurement affected by the protest determination.

**§ 134.503 When must a person file an appeal from an SDVO SBC protest determination?**

Appeals from an SDVO SBC protest determination must be commenced by filing and serving an appeal petition within 10 business days after the appellant receives the SDVO SBC protest determination (see § 134.204 for filing and service requirements). An untimely appeal will be dismissed.

**§ 134.504 What are the effects of the appeal on the procurement at issue?**

The filing of an SDVO SBC appeal with OHA stays the procurement. However, the contracting officer may award the contract after receipt of an appeal if the contracting officer determines in writing that an award must be made to protect the public interest. A timely filed appeal applies to the procurement in question even though a contracting officer awarded the contract prior to receipt of the appeal.

**§ 134.505 What are the requirements for an appeal petition?**

(a) *Format.* There is no required format for an appeal petition. However, it must include the following information:

- (1) The solicitation or contract number, and the name, address, and telephone number of the contracting officer;
- (2) A statement that the petition is appealing an SDVO SBC protest determination issued by the AA/GC and the date the petitioner received the SDVO SBC protest determination;
- (3) A full and specific statement as to why the SDVO SBC protest determination is alleged to be based on a clear error of fact or law, together with an argument supporting such allegation; and
- (4) The name, address, telephone number, facsimile number, and signature of the appellant or its attorney.

(b) *Service of appeal.* The appellant must serve the appeal petition upon each of the following:

(1) The AA/GC at U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416, facsimile (202) 205-6390;

(2) The contracting officer responsible for the procurement affected by an SDVO SBC determination;

(3) The protested concern (the business concern whose SDVO SBC status is at issue) or the protester; and

(4) SBA's Office of General Counsel, Associate General Counsel for Procurement Law, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416, facsimile number (202) 205-6873.

(c) *Certificate of Service.* The appellant must attach to the appeal petition a signed certificate of service meeting the requirements of § 134.204(d).

**§ 134.506 What are the service and filing requirements?**

The provisions of § 134.204 apply to the service and filing of all pleadings and other submissions permitted under this subpart unless otherwise indicated in this subpart.

**§ 134.507 When does the AA/GC transmit the protest file and to whom?**

Upon receipt of an appeal petition, the AA/GC will send to OHA a copy of the protest file relating to that determination. The AA/GC will certify and authenticate that the protest file, to the best of his or her knowledge, is a true and correct copy of the protest file.

**§ 134.508 What is the standard of review?**

The standard of review for an appeal of a SDVO SBC protest determination is whether the AA/GC's determination was based on clear error of fact or law. With respect to status determinations on whether the owner is a veteran, service-disabled veteran, or veteran with a permanent and severe disability, the Judge will not review the determinations made by the U.S. Department of Veteran's Affairs, U.S. Department of Defense, or such determinations identified by documents provided by the U.S. National Archives and Records Administration.